

REMARKS

Claims 1-12 were pending in the application; the status of the claims is as follows:

Claims 8 and 10 are objected to because of informalities.

Claims 1, 3-6, and 8-10 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,907,353 to Okauchi ("Okauchi").

Claims 2, 7, 11, and 12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Okauchi in view of U.S. Patent No. 6,122,411 to Shen et al ("Shen et al").

The indication, in the Office Action, that the Examiner has no objections to the drawings filed on August 30, 2001, is noted with appreciation.

The acknowledgement, in the Office Action, of a claim for foreign priority under 35 U.S.C. § 119(a)-(d), and that the certified copy of the priority document has been received, is noted with appreciation.

Claims 13-20 have been added for review.

Claim Objections

It is noted that the Examiner has objected to the form of language in claims 8 and 10. The claims, as amended, recite an antecedent basis for each aspect referred to or described. Accordingly, it is respectfully requested that the objections be reconsidered and withdrawn.

35 U.S.C. § 102(b) Rejection

The rejection of claims 1, 3-6, and 8-10 under 35 U.S.C. § 102(b) as being anticipated by Okauchi, is respectfully traversed based on the following.

Claim 1 is not anticipated by Okauchi because claim 1 recites an element not found in the Okauchi reference. Specifically, claim 1 recites “an image-number-specifying device which specifies the number of images to be used for creating a composite image from among said plurality of images stored in said image memory.”

In portions specified by the Examiner, Okauchi teaches a camera that takes a high-quality image. Okauchi's high-quality image is obtained by composing images with a pixel shift method. Disclosed are the case in which four images are picked up with images shifted by a 0.5-pixel pitch by controlling a variable-angle prism and the case in which nine images are picked up with images shifted by a 0.33-pixel pitch by controlling a variable-angle prism. The number of images is determined by the peak value of the focus evaluation value (Column 9, lines 21-26 and lines 53-56). Thus, in Okauchi, the number of images are photographed are determined by the physical characteristics of the image being taken and not by specifying the number of images from among images stored in memory. The camera of Okauchi, therefore, lacks a structure which “specifies the number of images to be used for creating a composite image **from among** said plurality of images stored in said image memory.” Accordingly, Okauchi does not include every limitation and cannot anticipate claim 1. MPEP §2131.

Claims 3-6 depend from claim 1 and thus include every limitation of claim 1. Therefore, claims 3-6 are not anticipated by Okauchi for at least those reasons explained in regard to claim 1.

Claim 8, as amended, is not anticipated by Okauchi because claim 8 contains an element not found in the Okauchi reference. Specifically, claim 8 recites that “a number of images to be picked up by said image pick-up element [is] set according to relative priorities of image quality and processing speed.”

In portions specified by the Examiner, Okauchi teaches a camera that takes a high-quality image. Okauchi's high-quality image is obtained by composing images with a pixel shift method. Disclosed are the case in which four images are picked up with images

shifted by a 0.5-pixel pitch by controlling a variable-angle prism and the case in which nine images are picked up with images shifted by a 0.33-pixel pitch by controlling a variable-angle prism. Which number of images are photographed is decided according to the degree of fineness of an object. In the case of a document including small characters or a drawing including fine design, the latter photographing is performed. The number of images to be photographed is **not**, however, determined according to the relative priorities given to image quality and processing speed as required by claim 8. Accordingly, Okauchi cannot anticipate claim 8.

Claims 9 and 10 depend from claim 8 and thus include every limitation of claim 8. Therefore, claim 9 and 10 are not anticipated by Okauchi for at least those reasons explained in regard to claim 8.

Accordingly, it is respectfully requested that the rejection of claims 1, 3-6, and 8-10 under 35 U.S.C. § 102(b) as being anticipated by Okauchi, be reconsidered and withdrawn.

35 U.S.C. § 103(a) Rejection

The rejection of claims 2, 7, 11, and 12 under 35 U.S.C. § 103(a), as being unpatentable over Okauchi in view of Shen et al, is respectfully traversed based on the following.

To support a *prima facie* case for obviousness, the cited references, alone or in combination, must show or suggest every limitation of the claim. MPEP §2143.03. Claim 2 is not obvious over Okauchi and Shen because claim 2 contains elements not disclosed or suggested by either Okauchi or Shen.

First, claim 2 includes the elements of claim 1 from which it depends. Specifically, claim 2 includes “an image specifying device which specifies images to be used for creating a composite image from among said plurality of images stored in said

image memory.” As explained above, Okauchi does not include this element. Shen also does not include such an element. Shen is directed to memory management, not creating composite images, and does not mention specifying images for composing. Accordingly, claim 2 is not obvious over Okauchi and Shen because claim 2 includes elements not disclosed or suggested by the combination of references.

Claim 7 is not obvious over Okauchi and Shen because claim 7 contains elements not disclosed or suggested by either Okauchi or Shen. It includes elements of claim 1 and claim 5 that are found in the references.

Claim 7 includes “an image specifying device which specifies images to be used for creating a composite image from among said plurality of images stored in said image memory.” As explained above in regard to claim 2, this element is not shown or suggested in Okauchi or Shen, singularly or in combination. Accordingly, claim 7 is not obvious over Okauchi and Shen because claim 7 includes elements not disclosed by the combination of references.

Claim 11 is not obvious over Okauchi and Shen because claim 11 contains elements not disclosed or suggested by either Okauchi or Shen. It includes elements of claim 8 and recites an additional element, which are found in the references.

Claim 11 requires that “a number of images to be picked up by said image pick-up element [is] set according to relative priorities of image quality and processing speed.” As explained above in regard to claim 8, this element is not found in Okauchi. It is also not found in Shen. The camera in Shen monitors how many images a memory can store, but it does not set a number of images to be picked up or composed. Even if combined, Okauchi and Shen only teach picking up a number of images, which number is based on the degree of fineness of an object, as long as the memory has capacity. They do not teach setting a number to be picked up which is determined according to the relative priorities given to image quality and processing speed. Accordingly, claim 11 is not obvious over Okauchi and Shen because claim 11 includes elements not found in the combination of references.

Claim 12 is also not obvious over Okauchi and Shen because claim 11 contains elements not disclosed or suggested by either Okauchi or Shen. Specifically, it includes the elements of claim 8, and it requires that "a number of images to be picked up by said image pick-up element [is] set according to relative priorities of image quality and processing speed." Thus, claim 12 cannot be obvious over Okauchi and Shen.

Accordingly, it is respectfully requested that the rejection of claims 2, 7, 11, and 12 under 35 U.S.C. § 103(a) as being unpatentable over Okauchi in view of Shen et al, be reconsidered and withdrawn.

New Claims

New claims 13-20 are not anticipated by, and are not obvious over, the cited prior art references because they include at least one element not disclosed or suggested by the references individually or in combination. Specifically, claim 13 recites "an image specifying device which specifies images to be used for creating a composite image from among said plurality of images stored in said image memory." As explained above, neither Okauchi nor Shen teach or suggest a structure which "specifies images...**from among** said plurality of images stored in said image memory."

Claims 14-20 depend from claim 13 and are not anticipated by, and are not obvious over, the cited prior art for at least those reasons explained in regard to claim 13.

Accordingly, it is respectfully requested that claims 13-19 be further considered and allowed by the Examiner.

CONCLUSION

In view of the foregoing amendments and remarks, this application is considered to be in condition for allowance, and an early reconsideration and a Notice of Allowance are respectfully requested.

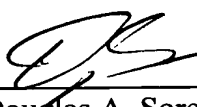
Application No. 09/942,893
Amendment dated January 25, 2005
Reply to Office Action of August 25, 2004

This Amendment increases the number of independent claims by 1 from 2 to 3 (3 claims previously paid for) and increases the total number of claims by 8 from 12 to 20 (20 claims previously paid for), but does not present any multiple dependency claims. If an extension of time is required to enable this document to be timely filed and there is no separate Petition for Extension of Time filed herewith, this document is to be construed as also constituting a Petition for Extension of Time Under 37 C.F.R. § 1.136(a) for a period of time sufficient to enable this document to be timely filed.

Any other fee required for such Petition for Extension of Time and any other fee required by this document pursuant to 37 C.F.R. §§ 1.16 and 1.17, other than the issue fee, and not submitted herewith should be charged to Sidley Austin Brown & Wood LLP's Deposit Account No. 18-1260. Any refund should be credited to the same account.

Respectfully submitted,

By: _____


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